

4. **MORGAN HILL URBAN SERVICE AREA (USA) AMENDMENT 2012 (MONTEREY-SOUTH OF WATSONVILLE)**

Chairperson Wasserman announced that the City of Morgan Hill has requested the continuation of the public hearing to June 5, 2013.

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open.

Leslie Little, Assistant City Manager, Morgan Hill, requested that the Commission continue the public hearing to June 5, 2013 to allow City staff more time to review the staff report.

Barton Hechtman, representing Royal Oaks Mushrooms, expressed support for continuation of the public hearing.

Doug Muirhead, a resident of Morgan Hill, requested that the Commission deny Morgan Hill's USA expansion request. He noted that in addition to this proposal, the City is also planning to expand its southeast boundary by about 1,000 acres and that the proposed expansion is also not being considered in its General Plan update process. He then discussed how these expansions are unnecessary since there are enough vacant lands within Morgan Hill city limits.

Chairperson Wasserman determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

The Commission continued the public hearing to June 5, 2013.

Motion: Constant

Second: Abe-Koga

MOTION PASSED

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

5. **SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 1**

Dunia Noel, LAFCO Analyst, provided an overview of the special districts service review. Jennifer Stephenson, Policy Consulting Associates, made a presentation on the highlights of the Draft Report. Ms. Stephenson and staff responded to Commission inquiries during the presentation.

With regard to the Saratoga Cemetery District (SCD), **Commissioner LeZotte** inquired why the annexation of a northern portion of Saratoga to SCD is not part of the recommendation. Ms Palacherla advised that the recommendation was removed since neither the SCD nor the residents identified this as an issue, and since there is no direct relationship between city boundaries and cemetery services. Ms. Palacherla continued that adding new areas would not result in corresponding increase in tax revenues for the District. She noted that the annexation of the area can be initiated by the SCD or by property owners at any time. **Commissioner Constant** stated that annexation may not be feasible if it would bring no additional tax revenues to the District.

Regarding Rancho Rinconada Recreation and Park District (RRRPD), **Chairperson Wasserman** observed that the duplication of services may be necessary to respond to the

demand for more swimming pools in the area. Ms. Stephenson advised that duplication of service between RRRPD and the City of Cupertino refers to the same type of service being provided to the same area by two different agencies. In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Palacherla informed that staff will meet with Cupertino and RRRPD staff to discuss governance options. In response to an inquiry by **Chairperson Wasserman**, Ms. Palacherla advised that some of the recommended actions could be initiated by LAFCO and others would be referred to the RRRPD, to the City or to the County for implementation. In response to a follow-up inquiry by **Chairperson Wasserman**, Ms. Palacherla stated that the RRRPD would set its own fee schedule. In response to an inquiry by **Commissioner Hall**, Ms. Stephenson informed that the City becomes the successor agency in a merger; however, with the formation of a subsidiary district, tax revenues can only be used within RRRPD boundaries and the City Council becomes the governing body. In response to an inquiry by **Commissioner Hall**, Ms. Stephenson advised that it is inefficient for two agencies to provide the same service to the same area. At the request of **Chairperson Wasserman**, Ms. Palacherla stated that the final recommended actions will be presented at the next meeting and that additional study may be required if the Commission opts to go forward with a specific action.

Acknowledging the purpose of service reviews and LAFCO's mandate to conduct them, **Chairperson Wasserman** noted that residents have chosen to pay additional taxes to provide for local governance and facilities and questioned LAFCO's involvement in that regard. **Commissioner Khamis** expressed agreement with Chairperson Wasserman and questioned any potential cost savings should Cupertino take over the District. In response to a request by the Commission, Ms. Palacherla explained the purpose of service reviews and sphere of influence updates and LAFCO's mandate to conduct them. **Commissioner Abe-Koga** questioned whether the residents are getting additional benefits for their taxes and stated that the only benefit to the RRRPD's residents appears to be the discounted rates. She also noted that there is little public interest in electing the District board members. **Commissioner Hall** stated that the duplication of service occurred only after the unincorporated area was annexed by Cupertino. Ms. Palacherla informed that because the Rancho Rinconada island annexation was controversial in itself, decisions regarding the District were deferred to a later time. She noted that during the first service review, LAFCO adopted a zero sphere of influence to indicate that the best option was for the District to be taken over by the City at some point. **Commissioner LeZotte** expressed agreement with Commissioner Abe-Koga's comments and noted that the lack of long term financial planning at the District is an additional concern. **Commissioner Constant** explained LAFCO's role in oversight of special districts and noted that LAFCO's service reviews for other districts got the attention of their board members and resulted in reforms.

On the South Santa Clara Valley Memorial District (SSCVMD), **Chairperson Wasserman** informed that the issues were first brought to his attention by a SSCVMD board member. **Commissioner Constant** noted that this case shows the importance of service reviews. In response to an inquiry by **Commissioner Constant**, Ms. Stephenson advised that SSCVMD cannot be a subsidiary district to the County and that there is no process to transition an independent special district into a dependent special district. She added that in order for the County to assume governance of the District, SSCVMD has to be dissolved and reformed as a dependent special district and that this option is not

feasible because the revenue source could be lost. **Commissioner Constant** expressed his concern that the current Board members may not be capable of implementing LAFCO's recommendations. Rather than consider dissolution of the District which would result in veterans no longer receiving service, **Commissioner Constant** requested that staff research legal options for LAFCO or the County to remove the current board members. In response to an inquiry by **Commissioner Constant**, Ms. Palacherla informed that staff will provide all the available options and identify the implementing agencies at the next meeting. Ms. Subramanian advised that the staff report will include potential options for removing the board members. **Commissioner LeZotte** agreed with Commissioner Constant and emphasized the need to replace the board members in order to carry out the recommended reforms and to protect SSCVMD's reserves. In response to an inquiry by **Alternate Commissioner Tucker**, Ms. Stephenson reported that she had met with some of the board members.

Chairperson Wasserman acknowledged that while there are serious issues with the operation of the District, the facility is in order and it appears that there are some reserves. He requested information on ways to protect the District's reserves while the service review recommendations are implemented and suggested that the current board members must not be involved in the hiring of the General Manager who will carry out the reforms. In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian advised that the General Manager will be hired by the SSCVMD board and not LAFCO. Ms. Subramanian advised that a letter may be sent to SSCVMD putting the District on notice that LAFCO is watching its expenditures. **Alternate Commissioner Kishimoto** agreed with Chairperson Wasserman and noted that SSCVMD has a small budget. She questioned whether hiring a General Manager is the best use of its funds and inquired if a merger with another memorial district is an option. Ms. Palacherla informed that there is no other memorial district within the County.

Chairperson Wasserman indicated that some of the District's funds may be needed to make the reforms. **Commissioner Hall** noted that just one election could deplete the District's reserves. **Chairperson Wasserman** commented on the usefulness of having the hall available for veterans' use and the importance of having responsible board members to ensure that tax dollars are spent correctly. **Commissioner Constant** reminded the Commission that the District's lack of response to previous grand jury reports shows that the problems are serious and not simply a matter of board members' ignorance.

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open.

Doug Muirhead, a resident of Morgan Hill, stated his appreciation for the Report and expressed his concerns about the service review process. He questioned the role of the Technical Advisory Committee, the process for terminating the first consultant and hiring the second consultant and whether the change in consultants resulted in additional burden to special districts' staff.

Chairperson Wasserman determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

The Commission considered the Draft Report for the Special Districts Service Review: Phase 1; accepted public comments; and, directed staff to revise the Report as necessary to address comments received through April 5th and set June 5, 2013 as the date for the public hearing to consider adoption of the Final Report.

Motion: Wilson

Second: Abe-Koga

MOTION PASSED

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

6. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2014

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open, determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

Commissioner Constant reported that the Finance Committee reviewed and recommended the proposed budget and made additional recommendations regarding implementation of electronic distribution of agenda packets. He reported that the LAFCO Counsel was directed to work with the County to establish a process for Executive Officer performance evaluation, hiring / firing and for setting LAFCO staff salary ranges. **Chairperson Wasserman** expressed appreciation to Commissioners Constant and Hall for serving on the Finance Committee. In response to an inquiry by **Commissioner LeZotte**, **Commissioner Constant** informed that LAFCO staff members are County employees funded by the LAFCO budget and that the current Memorandum of Understanding (MOU) does not provide for these processes. **Commissioner Wilson** stated that it is appropriate to establish rules for LAFCO staffing to ensure LAFCO's independence. Ms. Palacherla informed that LAFCO was funded and staffed by the County prior to 2001. She explained that the Cortese-Knox-Hertzberg Act of 2000 required LAFCOs to be independent, and since then, LAFCO has contracted with the County for staffing and facilities. Ms. Subramanian explained that the LAFCO MOU with the County provides a process for hiring the LAFCO Executive Officer but does not include a process for removal.

Ms. Palacherla presented a brief staff report.

Commissioner Constant informed that the Finance Committee had a thorough discussion on the amount budgeted for reserves. **Commissioner Wilson** expressed appreciation to Chairperson Wasserman, and Commissioners Constant and Hall for serving on the Finance Committee.

The Commission adopted the Proposed LAFCO Budget for Fiscal Year 2013-2014; found that the Proposed LAFCO Budget for Fiscal Year 2014 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; and, authorized staff to transmit the Proposed LAFCO Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice on the adoption of the Fiscal Year 2014 Final Budget to the cities, to the special districts, to the County, to the Cities Association and to the Special Districts Association.

Motion: Constant

Second: Wilson

MOTION PASSED

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

7. LEGISLATIVE COUNSEL’S OPINION ON THE APPLICABILITY OF THE GANN APPROPRIATIONS LIMIT TO HEALTH CARE DISTRICTS

Ms. Palacherla and Ms. Subramanian presented the staff report.

In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian informed that the State Attorney General’s (AG) website states that an opinion could be rendered in four to six months. **Commissioner Constant** indicated his preference for obtaining an AG opinion and suggested that LAFCO use the Legislative Counsel’s opinion in the meantime. **Commissioner Abe-Koga** noted that this does not address why the El Camino Hospital District is setting aside funds and not spending more on community benefits. **Commissioner Constant** agreed in concept with Commissioner Abe-Koga and noted that it would be helpful to get more resolution of the issue with an AG Opinion. In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian stated that staff needed more time to review the Legislative Counsel’s opinion and would provide a summary at the next meeting.

8. UPDATE ON GUADALUPE COYOTE RESOURCE CONSERVATION DISTRICT’S IMPLEMENTATION OF THE RECOMMENDATIONS OF LAFCO’S 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT

Ms. Noel presented the staff report and directed attention to a letter from the Guadalupe Coyote Resource Conservation District expressing appreciation to the Commission and staff for their constructive recommendations through the service review process.

9. AGENCY REPORT OF PUBLIC OFFICIAL APPOINTMENTS: FORM 806

Ms. Noel presented the staff report.

10. EXECUTIVE OFFICER’S REPORT

10.1 UPDATE ON SPECIAL STUDY ON IMPACTS OF THE POTENTIAL DISSOLUTION OF SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

Ms. Palacherla presented the staff report.

10.2 CALAFCO ANNUAL CONFERENCE AUGUST 28-30

Ms. Palacherla presented the staff report.

Commissioner Constant encouraged commissioners to attend the CALAFCO Conference. In response to an inquiry by **Commissioner Wilson**, Ms. Palacherla advised that Alternate Commissioner Trumbull may attend the Conference in place of Commissioner Wilson. In response to an inquiry by **Commissioner LeZotte**, Ms. Subramanian advised that attendance by all the commissioners is exempt from the Brown Act as long as they do not discuss Santa Clara LAFCO’s business.

The Commission authorized commissioners and staff to attend the 2013 CALAFCO Annual Conference and directed that the associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2014.

Motion: Constant

Second: Wilson

MOTION PASSED

AYES: Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

11. PENDING APPLICATIONS

11.1 West Bay Sanitary District SOI Amendment and Annexation

12. COMMISSIONER REPORTS

13. NEWSPAPER ARTICLES / NEWSLETTERS

14. WRITTEN CORRESPONDENCE

15. ADJOURN

The meeting was adjourned at 3:25 p.m. to the next meeting on Wednesday, June 5, 2013 in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Mike Wasserman, Chairperson

Local Agency Formation Commission of Santa Clara County

By: _____

Emmanuel Abello, LAFCO Clerk